



Division of the Public Advocate

2019 Annual Report

DIVISION OF THE PUBLIC ADVOCATE

November 18, 2020
Andrew Slater
Public Advocate



State of Delaware
Department of State
Division of the Public Advocate



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VIA ELECTRONIC MAIL

The Honorable John C. Carney, Jr.
Governor
State of Delaware
Tatnall Building
150 Martin Luther King, Jr. Boulevard South
Dover, DE 19901

Re: Annual Report of the Division of the Public Advocate

Dear Governor Carney:

Thank you for the opportunity to serve as the Public Advocate for our state and to provide the Division of the Public Advocate's ("DPA") 2019 Annual Report.

This year, we began by completing rate reductions for all regulated utilities due to the Tax Cuts and Jobs Act of 2017, commenced the Arrearage Management Program through the merger with Exelon, and focused on market changes at PJM that will impact our state. We ended the year completing two electric vehicle dockets, electric distribution planning regulations, and learning of Delmarva Power's request for electric and natural gas rate cases in the first quarter of 2020.

On the federal side, the Federal Energy Regulatory Commission (FERC) issued its long-awaited ruling on PJM's capacity market, the results of which will lead to numerous arguments in the coming years about subsidies, state's rights, renewables, energy efficiency, and a host of other concerns. In the end, this decision could cost PJM customers \$2.4 billion per year and increase in cost over time, according to FERC Commissioner Richard Glick, who dissented from the majority ruling. The DPA and a host of other entities have appealed FERC's ruling, and we hope to secure a favorable ruling from the appellate court.

Though we have been busy with these important discussions, we continue to prioritize regulated utility consumers. In the past year, we have had more than 1,000 consumer interactions. Many consumers had questions about their utility bills and ongoing maintenance and construction projects, such as vegetation management. We have also intervened in several formal complaint dockets at the Public Service Commission to address issues that affect broader consumer interests and have been successful in protecting those broader consumer interests.

Thank you again for the opportunity to serve as the Public Advocate for our state. The DPA looks forward to working with you to ensure that consumers voices are heard in state and federal proceedings, that the costs to consumers are considered, and that valuable consumer protections are in place.

Sincerely,

/s/ Andrew Slater
Public Advocate

Agency History

The Division of the Public Advocate (“DPA”) was created in 1978 in response to public outcry over steadily and sharply increasing utility rates. In establishing the DPA, the General Assembly charged the Public Advocate with representing consumer interests whenever utility companies regulated by the Public Service Commission (“PSC”) seek changes in the delivery of services or changes in rates for electric distribution, natural gas supply, water, or wastewater services, or local exchange telephone services.

In 2013, the General Assembly amended 29 *Del. C.* § 8716 to clarify its intent that the DPA is to advocate primarily on behalf of residential and small commercial customers, and that the DPA need not advocate on behalf of large commercial and industrial customers where the Public Advocate determines that these entities have the means to advocate on their own behalf. The DPA’s advisory role was also expanded to permit the Public Advocate to provide guidance to the Governor, the General Assembly, or the Secretary of State on matters of energy policy and utility consumers, or other matters.

In 2019, the General Assembly again amended 29 *Del. C.* § 8716 to allow the DPA to retain outside counsel to assist it, primarily in cases at the Federal Energy Regulatory Commission (“FERC”).

Agency Mission

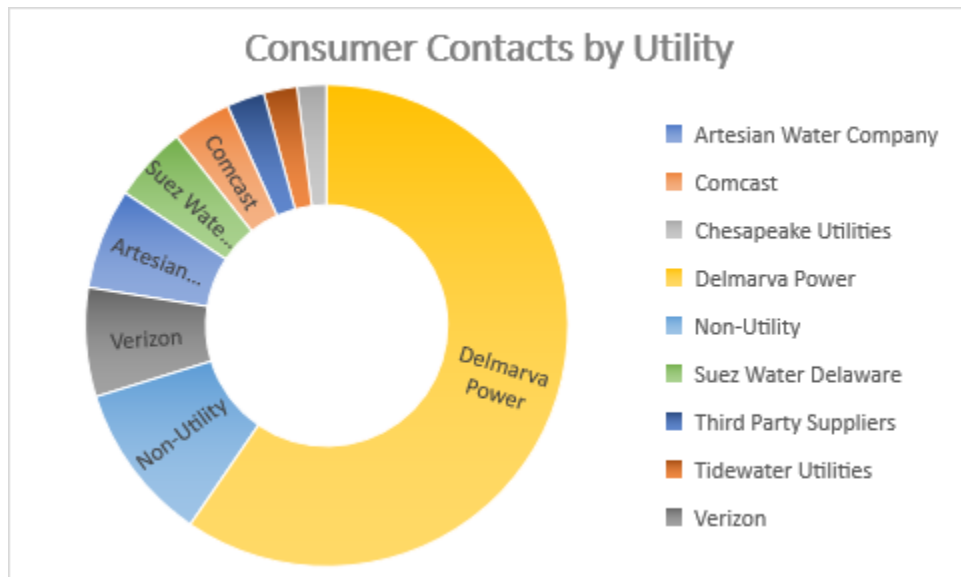
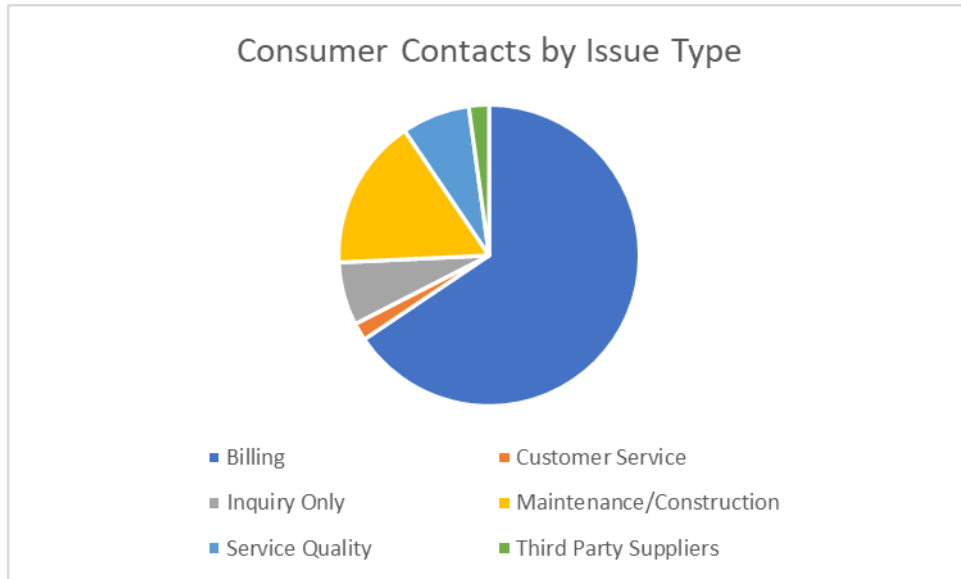
The fundamental mission of the DPA is to advocate for the lowest reasonable rates for consumers, consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers.

The DPA appears before the PSC on behalf of the interest of consumers in any matter or proceeding over which the PSC has jurisdiction and in which the Public Advocate deems the interest of consumers requires such participation. The DPA also appears on behalf of the interest of consumers in the courts of Delaware, the federal courts, and federal administrative and regulatory agencies and commissions in matters involving rates, service, and practices of public utilities.

Recognizing the unique role of the DPA, the General Assembly has statutorily appointed the Public Advocate, or his/her designee, to a number of important working groups, councils, and/or committees such as the Sustainable Energy Utility (“SEU”) and Renewable Energy Task Force.

Consumer Engagement

The DPA receives informal utility complaints from customers, which it investigates with the proper utility representatives. In 2019 our office logged more than 1,000 consumer contacts. In addition, there were many calls that were not logged in the system because the answer was more immediately available.



Tax Cuts and Jobs Act of 2017

The Tax Cuts and Jobs Act of 2017 reduced the corporate tax rate from 35 percent to 21 percent. The DPA filed a petition, supported by 38 members of the General Assembly, to ensure this 14 percent savings went back to the regulated utility consumers.

The benefit of this reduction can be found for each utility under Docket 17-1240 at <https://delafile.delaware.gov>. It is important to remember the rate reduction from the Tax Cuts and Jobs Act for Delmarva Power consumers was included in Delmarva's then-pending rate cases, the results of which led to an overall reduction in the PSC-approved rates in those cases.

2019	PSC Order Number
Artesian Water Company, Inc.	9317
Chesapeake Utilities	9330
Long Neck Water Company	9318
Suez Water Delaware	9319
Sussex Shores Water Company	9331
Tidewater Utilities, Inc.	9332

Arrearage Management Program

As a condition of the PSC's approval of the Exelon-Delmarva Power merger, \$3.1 million was made available to create a pilot Arrearage Management Program. The program allowed qualified Delmarva Power consumers who owed at least \$500, and up to \$6,000, in past due arrears to have their arrears forgiven by making full and timely payments of their current bills in 12 out of 15 months. This program was approved to run through the end of December 2019 with results reported thereafter.

Electric Distribution Planning Regulations

On July 2, 2018, the DPA and PSC Staff filed a petition to establish electric and natural gas distribution planning. Distribution planning is an important tool that allows a proactive look at planning, maintenance, and spending. The electric regulations were completed in 2019 with the natural gas regulations to be completed in 2020. The first electric distribution planning report is due in 2020.

Future Rate Cases

In the fourth quarter of 2019, the DPA was informed of Delmarva Power's plan to file an electric and natural gas base rate case. These cases are projected to be filed in the first quarter of 2020. The last base rate case for Delmarva Power's electric and natural gas divisions were settled in 2018. The electric base rate case settled for an overall **reduction in rates** of \$6,850,000. The natural gas base rate case settled for an overall **reduction in rates** of \$3,500,000. Through approved legislation, Delmarva Power was precluded from filing a rate case until January 1, 2020.

PJM

The DPA is the only state agency that is a voting member of PJM. In this role, we regularly attend meetings at PJM regarding a host of issues. This year has been no different.

Similar to last year, we remain concerned about several proposals. One in particular is the Capacity Construct/Public Policy Senior Task Force (“capacity construct”).

Capacity Repricing - Before the Federal Energy Regulatory Commission (“FERC”), PJM sought to reprice state subsidized resources that bid into the capacity market. FERC held that States have the right to pursue policies by supporting resources with out-of-market payments, but they do not have the right to have those resources participate in the Capacity Market where they (allegedly) cause price suppression. FERC’s proposal was to establish a Minimum Offer Price Rule with very limited exemptions, particularly the renewable portfolio standards. Numerous parties have appealed FERC’s orders to the District of Columbia and Seventh Circuit Court of Appeals.

PJM Carbon Tax Whitepaper – In December 2018, the DPA began an ongoing conversation with PJM, the regional grid operator, regarding its carbon pricing white paper to better understand PJM’s thoughts on state actions. The DPA continued this dialogue in 2019.

FERC

The DPA intervenes in a host of cases before the FERC. Two of the more significant of these non-PJM FERC matters are discussed below.

FERC Docket No. RP18-1126 (Transcontinental Pipe Line Company) - Transcontinental Pipe Line Company (“Transco”) is an interstate pipeline that provides natural gas transmission (transportation) service from various receipt points located outside Delaware to customers within the State of Delaware and other states. In 2018, it filed an application with the FERC to increase its natural gas transportation rates (among other rates). The DPA intervened in the proceeding to protect the interests of Delaware’s end-use customers. The parties ultimately reached a settlement, which FERC has approved, and are participating in numerous working groups to reach a consensus on some of Transco’s proposals.

FERC Docket No. RP19-343 (Texas Eastern Pipe Line Company, LLC): Texas Eastern Pipe Line Company, LLC (“TETCO”) is an interstate pipeline that provides natural gas transmission (transportation) service from various receipt points located outside Delaware to customers within the State of Delaware and other states. In 2019, it filed an application with the FERC to increase its natural gas transportation rates (among other rates). The DPA intervened in the proceeding to protect the interests of Delaware’s TETCO customers. The parties ultimately reached a settlement, which FERC has approved, and are participating in numerous working groups to reach a consensus on some of TETCO’s proposals.